REMARKS

I. 35 U.S.C. § 112

Claim 27

Claim 27 was rejected under 35 U.S.C. § 112 as being indefinite. Applicant has amended the claim to further define remotely located as being located at a detached location away from the electronic gaming machine, such as at the casino's entry door or hotel check-in area (page 7, lines 8-22). Accordingly, this rejection should be withdrawn.

II. 35 U.S.C. § 102

Claims 1-2, 4-5, 10-11, 13, 15, 20-21, 23 and 26-27 were rejected under 35 U.S.C. § 102(b) as being anticipated by Matchett et al (U.S. Patent No. 5,229,764) and under 35 U.S.C. § 102(e) as being anticipated by Schneier et al (U.S. Patent No. 5,768,382). These rejections are moot as claims 1, 10 and 20 have been amended.

"Anticipation requires the disclosure in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)). As set forth below, Matchett and Schneier fail to expressly or inherently disclose at least one element recited in each of the amended independent claims.

As described and claimed in the present application, when a person plays a gaming device 34, the person's image may be acquired and compared to facial identification data (FID) entries 28a-d stored in a FID library 26 (page 13, lines 8-14). If the acquired image and the stored image entry are substantially similar, the identified or verified player's account file 30a is opened to track the player's gaming activities (page 13, lines 15-27 and fig. 2). Conversely, if the acquired image and the stored image entry are not substantially similar, the acquired facial identification data of the unidentified or unverified player is assigned a "doe" file entry 52a-b and stored in a "doe" library 54 (page 15, line 24 – page 16, line 7). And as the new "doe" player plays, his or her play history is tracked and recorded to the corresponding "doe" file entry. As such, the system tracks all players regardless of whether they've agreed to

be tracked (registered players, verified players) or not (unregistered players, doe players). Accordingly, the present claims are patentably distinct as written, and the rejection of these claims under Section 102 must be withdrawn. Specifically, claims 1, 10 and 20 have been amended to further recite: "and when not verified, creating a new biometric data file to receive play data based on the unverified player's play of said electronic gaming machine."

Matchett, in contrast, fails to disclose creating a new biometric data file when captured biometric data does not match any stored biometric data or storing an unverified player's play data on an electronic gaming machine to a newly created biometric data file. In Matchett, a particular user's relevant biometric characteristics and data is initially recorded and stored for future reference (col. 4, lines 55-60). A new biometric data can be acquired from a prospective user who attempts to use the protected system or device by comparing the newly acquired biometric data to the particular user's previously stored biometric data (col. 4, lines 61-66). In doing the comparison, the new user may be accepted or rejected based on the results of the comparison (col. 4, lines 67-68). As such, Matchett does not disclose creating a new biometric data file for an unverified player or storing unverified player's play data on an electronic gaming machine to the newly created biometric data file.

In addition, Schneier also fails to disclose creating a new biometric data file when captured biometric data does not match any stored biometric data or storing an unverified player's play data on an electronic gaming machine to a newly created biometric data file. In Schneier, biometric identification devices may be used to provide player identity verification at a game computer 14 to preclude cheating or player substitution (col. 15, lines 11-15 and col. 27, lines 52-56). The acquired player fingerprint is scanned, digitized and stored in memory location 35 for future comparison purposes (col. 15, lines 15-21 and col. 27, lines 56-63). When a new player approaches the game computer 14 and submits to the biometric identification process, if the acquired fingerprint matches with those previously stored, the player is granted access to continue (col. 27, lines 63-67). If not, the player is denied access to the system and the gaming process terminates (col. 15, lines 22-25 and col. 27, line 67 – col. 28, line 1). As such, Schneier does not disclose creating a new biometric data file for an unverified player or storing unverified player's play data on an electronic gaming machine to the newly created biometric data file.

Furthermore, the Examiner has conceded that creating a new biometric data file when captured biometric data does not match any stored biometric data (when unverified) is allowable subject matter and precludes anticipation by the references but for the use of alternative language. Applicant asserts that the claim language as currently amended positively recites the critical feature/step and therefore overcomes the prior art references.

Since Matchett and Schneier fail to expressly or inherently disclose each and every element of amended independent claims 1, 10 and 20 and claims 2, 4-5, 11, 13, 15, 21, 23 and 26-27 depend from and add further limitations to claims 1, 10 and 20, the rejection of these claims is also overcome. Thus, claims 1-2, 4-5, 10-11, 13, 15, 20-21, 23 and 26-27 are patentably distinct as written and the rejection of these claims under Section 102 should accordingly be withdrawn.

III. 35 U.S.C. § 103

Claims 3, 4 and 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Matchett in view of Daugman (U.S. Patent No. 5,291,560) and over Schneier in view of Daugman, claims 1-5, 10-15 and 20-29 over Franchi (U.S. Patent No. 5,770,533) or Slater (U.S. Patent No. 5,613,912), each in view of Matchett, and claims 12, 24-25 and 28-29 over Schneier in view of either Franchi or Slater. These rejections are moot as claims 1, 10 and 20 have been amended.

As discussed above, Matchett and Schneier do not disclose, suggest or teach all of the elements recited in amended independent claims 1, 10 and 20. See discussion supra. In addition, the combinations of Franchi and Slater, each in view of Matchett, also fail to disclose, suggest or teach all of the elements recited in amended independent claims 1, 10 and 20. In Franchi, player tracking does not begin until the player has inserted a betting card into an individual player console and the betting card, along with the player's identification, has been verified or validated (col. 5, line 65 – col. 6, line 29). The betting card 401 can be a credit card, bank card, smart card or other standard debit card having a microprocessor and memory for storing a player's balance information and other identifying data (fig. 4 and col. 6, line 65 – col. 7, line 15). As such, Franchi does not teach or suggest tracking a player unless the player has an associated betting card. In contrast, the present invention discloses tracking a "doe" player

even though the "doe" player has never visited the facility before. Furthermore, the presently disclosed invention tracks the "doe" player's play on a gaming machine to an opened "doe" file on behalf of the "doe" player without the player having to register with the facility. Likewise, with Slater, player tracking does not begin until the player inserts a magnetic identity card 160 into a card reader 113 (col. 4, lines 8-10). The magnetic identity card 160 includes a magnetic strip 162 for recording an identity code 164, which is subsequently used by a computer system 140 to retrieve the player's betting history and other relevant information (col. 3, line 62 – col. 4, line 67). Like Franchi, Slater also fails to teach or suggest tracking a player unless the player has an associated magnetic identity card. Accordingly, the combinations of Franchi and Slater, each in view of Matchett, fail to teach or suggest all of the elements recited in claims 1, 10 and 20 and the rejection of these claims under Section 103 should be withdrawn. Likewise, the rejection to claims 2-5, 11-15 and 21-29, which depend from and further limit claims 1, 10 and 20, should also be withdrawn.

Applicant further asserts that the remaining 103 reference, Daugman, also fails to teach or suggest all of the elements recited in amended independent claims 1, 10 and 20. Daugman, like Matchett, discloses biometric identification means, more specifically, biometric identification based on iris analyses. In Daugman, subject data is acquired 10, defined 18 and analyzed 20 (fig. 1). The stored data 22 can then be used to identify or reject a subject (col. 4, lines 62-67 and block 28 of fig. 1). Naturally, a rejected subject is denied access to the system. As such, there is no suggestion or teaching in Daugman to create a new biometric data file for a "doe" player or storing a "doe" player's play data on an electronic gaming machine to the newly created biometric data file. Accordingly, the combination of Matchett and Daugman or Schneier and Daugman fails to disclose, suggest or teach all the elements recited in claims 3, 4 and 22 and the rejection of these claims under Section 103 should be withdrawn.

IV. Conclusion

It is respectfully submitted that the application is now in condition for allowance and, accordingly, reconsideration and allowance are respectfully requested. Should any questions remain regarding the allowability of the application, the Examiner is invited to contact the

undersigned at the telephone number indicated below.

Respectfully submitted,

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